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September 6, 2001

David P. Boergers, Secretary  
Federal Energy Regulatory Commission  
888 First Street NE  
Washington, DC 20426

Subject: FERC project 2496 - Leaburg-Waltermville Project  
Endangered Species Act Section 7 Consultation: Final Biological Opinion on  
the Federal Energy Regulatory Commission's relicensing of the Eugene Water  
and Electric Board's Leaburg-Waltermville Project in the McKenzie River  
basin, Oregon.

Dear Mr. Boergers:

Enclosed is the final biological opinion, prepared jointly by the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (USFWS), (collectively the Services) on the Federal Energy Regulatory Commission's (FERC) proposed relicensing of the Eugene Water and Electric Board's (EWEB) Leaburg-Waltermville hydroelectric project (FERC #2496). This document represents the Services' biological opinions on the effects of the proposed action on listed and proposed species and designated critical habitat in accordance with Section 7 of the Endangered Species Act of 1973 (ESA) as amended (16 USC 1531 *et seq.*). This biological opinion is also being provided to EWEB as FERC's designated non-Federal representative.

The operation of the Leaburg-Waltermville Project, under the 1997 FERC license, as reinstated and amended by FERC on April 27, 2000; the conservation measures as proposed in the FERC 2001 Biological Assessment (BA); and the revised and updated

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Pacific Region

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license articles developed by NMFS, USFWS, EWEB, and FERC separated staff, constitute the "proposed action" by FERC. The term of this biological opinion is the duration of the new license, forty years, and is the period of time during which the project operates under the terms and conditions of that license. The precise beginning and end dates of the license will be clarified by FERC when it acts on EWEB's pending request regarding term of the license. Specifically, EWEB has requested that FERC clarify that the license term of forty years for the Leaburg-Waltermville Project begins in April, 2000.

Informal consultation discussions with FERC and EWEB began in January, 1999 for the USFWS, and in August, 1999 for NMFS. By letters dated June 24, 1999, and October 8, 1999, EWEB was designated by FERC as a non-Federal representative for the purpose of preparing the BA to determine the potential effects of EWEB's McKenzie River hydroelectric projects on Federally listed, proposed and candidate species and their critical habitat. Federal species lists were consequently issued to EWEB on January 10, 2000, by USFWS and on December 6, 1999 by NMFS. During the development of the BA, the Services were given the opportunity to provide assistance and input during monthly coordination meetings. Consequently, EWEB filed the draft BA with FERC on December 21, 2000, and FERC forwarded the BA, with no changes, to the Services who received the document on February 15, 2000.

During the development of the draft biological opinion, the Services, FERC, and EWEB simultaneously worked toward revising and updating certain license articles for the Leaburg-Waltermville Project with the goal of forwarding those license articles, a settlement offer and an agreement, and the biological opinion to FERC as a complete package. The revised and updated license articles for the Leaburg-Waltermville license and the Article 403-required construction schedule, prepared as part of the package, call for construction activities to begin in 2002. A meeting among the Services, FERC, and EWEB was held on June 15, 2001, to finalize the documents and review the current status of the biological opinion. At the meeting, based on information provided by the Department of Interior solicitor and FERC separated staff, the parties concluded that issuance of a biological opinion that included two additional EWEB hydroelectric projects, Carmen-Smith and Blue River, could delay FERC approval of the revised and updated license articles, the settlement offer and agreement, and the issuance of the biological opinion on the Leaburg-Waltermville facilities. In order to avoid potential construction delays, it was agreed by the parties to pull the Carmen-Smith and Blue River components of the proposed action out of the biological opinion, instead issuing a biological opinion only on the proposed action at the Leaburg-Waltermville Project. The biological opinions on the Carmen-Smith and Blue River projects will be issued to FERC at a later date.

In this biological opinion, the Services have concluded that the ongoing operation of the Leaburg-Waltermville Project is not likely to jeopardize the continued existence of Upper

Willamette River chinook salmon or Columbia River bull trout. In addition, the USFWS concurs with FERC's "not likely to adversely affect" determination regarding effects from EWEB's proposed action on Canada lynx, Kincaid's lupine, Bradshaw's lomatium, Northern spotted owl and bald eagle. A complete administrative record of this consultation is on file at the Services' offices listed below.

This concludes formal consultation on the actions outlined in FERC's request. Reinitiation of formal consultation is required where discretionary Federal agency involvement or control over the action has been maintained (or is authorized by law) and if: 1) new information reveals that the agency action may affect listed species or critical habitat in a manner or to an extent not considered in the opinion; 2) the agency action is subsequently modified in a manner that causes an effect to listed species or critical habitats that was not considered in this opinion; or, 3) a new species is listed or critical habitat designated (other than those addressed in this opinion) that may be affected by the identified action.

Comments or questions regarding this biological opinion can be directed to Lynne Krasnow (NMFS) and Chris Allen (USFWS) at the following addresses:

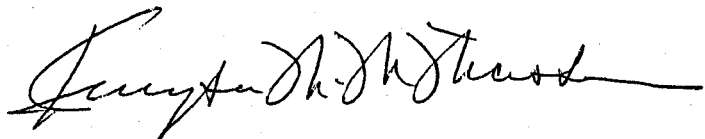
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Sincerely,



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